

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5226 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?  
Nos. 1 to 5 No.

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ARUNABEN W/O RAJESH GANDABHAI CHHARA

Versus

STATE OF GUJARAT

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Appearance:

M/S THAKKAR ASSOC. for Petitioner

GOVERNMENT PLEADER for Respondent No. 1, 2, 3

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CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 06/11/96

ORAL JUDGEMENT

This Special Civil Application is directed against the order dated 13.6.1996 passed by the Police Commissioner, Ahmedabad City whereby the petitioner has been detained under the provisions of Gujarat Prevention of Antisocial Activities Act, 1985. The detention order was executed on 17.6.1996 and since then the petitioner is under detention lodged at Sabarmati Central Jail at

Ahmedabad.

This Special Civil Application was filed on 18.7.1996 and on 19.7.1996 Rule returnable on 23.8.1996 was issued. So far neither any reply has been filed nor any affidavit of the Detaining Authority has been filed. The grounds enclosed with the detention order show that against the present petitioner three criminal cases under Bombay Prohibition Act were registered. Besides this the Detaining Authority has taken into consideration the statements made by certain witnesses with regard to the incidents dated 2.6.1996 and 28.5.1996. The lady-petitioner has been found to be engaged in antisocial activities and has been detained as bootlegger.

The detention order has been challenged on more than one ground but the learned Counsel for the petitioner has laid stress on the ground that no case of breach of public order is made out.

In view of the reasons given in the judgment dated 4.10.1996 in Special Civil Application No. 3879 of 1996 it is clear that the allegation and material relied upon by the Detaining Authority against the petitioner do not constitute a case of breach of public order. It can at the most be said that it is a breach of law and order. The detention order therefore deserves to be quashed and set aside on this ground alone.

Accordingly this Special Civil Application is allowed. The impugned order of detention dated 13.6.1996 passed by the Police Commissioner, Ahmedabad City is hereby quashed and set aside. The petitioner's detention is declared to be illegal. The respondents are directed to release the petitioner forthwith if not required in any other case. Rule is made absolute.

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